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27 28 I, Glenn E. Haas, do declare and if called as a witness would testify as follows:

- 1. This is my fourth declaration in this case. I have prepared this declaration in response to twelve declarations submitted by the National Park Service (NPS) in response to my 3rd declaration of September 2006 (Document No. 316). As in all my declarations, I use the phrase visitor capacity to be the same as user capacity or recreation carrying capacity.
- 2. The discussion on the adequacy of VERP as a substitute for visitor capacity in this court case is going backwards. We are at this time recycling information, being redundant, and not relying on full information. In January 2004 I filed my 1st declaration (Document No. 148), Drs. Manning and Cole filed opposing declarations in February 2004 (Document Nos. 156) & 160, respectively), and I filed a 2nd declaration in March 2004 in response to the latter (Document No. 177). That is where the discussion stands.
- None of the Defendants' twelve declarants establish that they have even read my 3. second declaration. The two experts cited most heavily by the Defendants, Dr. Jeff Marion and Director Maniella, do not demonstrate that they have read my 1st or 2nd declaration. Furthermore, the twelve declarants do not add any new evidence that was not previously submitted in 2004 by Drs. Cole and Manning, or has not already been responded to in my 2nd declaration of March 2004.
- One purpose of my 3rd declaration of September 2006 was to establish that 4. proceeding with development directly tied to use, in the absence of a valid decision as to user capacity within a valid comprehensive management plan for the Merced Wild & Scenic River. may have irreparable consequences. The declarations in response do not dispute that position. Instead the declarants try to validate the VERP program, notwithstanding this Court's July 19,

2006 finding that the VERP program, as an element of user capacity, does not comply with legal requirements and, in the case of Yosemite, is being used as a "reactionary tool to try to stop degradation that has already occurred." (Court Opinion at page 35.)

- 5. The Defendants' attempt to discredit my expertise related to NEPA, CEQ, and tiering has no basis in fact. I am a full professor with 28 years of teaching, research and federal resource agency collaboration. I have 10 years of teaching an undergraduate course in natural resource policy, 10 years teaching park and wilderness management planning, 5 years teaching a graduate course entitled NEPA-compliant land use planning, and 3 years teaching a graduate course entitled natural resource decision making for senior executives. I have been a paid consultant to review the NPS's Yellowstone Snowmobile environmental documents, the USFS's South California Desert Area management environmental documents, and the BLM's Imperial Sand Dunes Recreation Area's environmental documents, to name just a few projects I have worked on recently. Currently I am under contract with California State Parks and the US Bureau of Reclamation to prepare the recreation and capacity sections of the environmental documents for the North and Middle Forks of the American River in California.
- 6. Several of the declarants refer to numeric visitor capacities as outdated. I concur that the notion that numeric visitor capacities could be determined solely from a scientific study or monitoring is outdated. From a management perspective, numeric visitor capacities remain a fundamental and important tool, and increasingly so as visitation on public lands continues to increase. Since none of the declarants establish that they have read my 2nd declaration of March 2004, I resubmit the following statements from page 4 of that document:

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The Defendants' Response also states that Dr. Haas' "insistence on a numerical carrying capacity (a maximum number of visitors) is clearly at odds with the scientific and professional literatures." On the contrary, I think there is a disconnect between recreation science and the recreation management profession in that the use of numerical visitor capacities are widespread at local, county, state, and federal sites across America. Recreation science (and literature) abandoned their study of numerical visitor capacities over 20 years ago because the relationship between visitor use and effects on the resource or visitors cannot be scientifically determined. Dr. Manning supports this in his declaration by saying that research on carrying capacity analysis moved "away" from attempts to define a maximum level of use. Dr. Manning also explains why this is indeed the situation in his 1986 article in The President's Commission on American's Outdoors: A Literature Review, in which he concluded that visitor capacity is not a scientific finding but rather an administrative decision. The article states that these (capacity) management decisions will require value judgment that cannot be derived from scientific research. (Doc. No. 177, par. 7 on page 4, emphasis in original.)

While the recreation science community (and literature) moved away from numeric visitor capacities because they are not scientifically determined, the recreation management profession has not. There is sufficient and compelling evidence that recreation management professionals across the Nation support using numerical visitor capacities: from the Washington National Monument to the Channel Islands National Park; from rivers such as the Rogue, Deschutes, American, Rio Grande, Smith, Snake, Salmon, McKenzie, Colorado, Green, Yampa, and Youghiogheny; to the 95 field units contained within Appendix B of the Task Force report, previously submitted to the Court. And, as disclosed in the Defendants' Response, Yosemite National Park has not moved away from numerical visitor capacities, but has relied upon them extensively as a means of protecting Yosemite's wilderness areas. (Id., par. 8 on page 4, emphasis in original.)

- 7. As stated in 1986 by Dr. Manning, and I concur, visitor capacity decisions require value judgments that cannot be derived solely from scientific research. That is, a visitor capacity is not the output of a study or monitoring program, and thus a visitor capacity is not the output of VERP.
- 8. The Federal Interagency Task Force on Visitor Capacity agreed with Dr. Manning and developed substantive guidance on the information sources to be considered to address visitor capacity. I identified these in paragraph 14 of my 1st declaration of January 2004, which I provide here.

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Visitor capacity decision making should consider many informational inputs. Those particularly relevant to a visitor capacity decision might include:

- management objectives (including all legislative and policy guidance); desired future conditions and quality standards for resource, social, management conditions;
- current and future recreation demand (who, where, what, when, how, why);
- current resources, conditions, uniqueness, capability, and trends;
- current management capability and suitability;
- current or future type, amount, and design of facilities and infrastructure;
- appropriateness (compatibility) of current or proposed recreation opportunities;
- regional supply of the same and similar recreational opportunities;
- *foreseeable changes in recreation and non-recreational uses;*
- existing allocations to permittees and other land uses/users;
- significance of the visitation issues and concerns;
- potential for natural or cultural resource impairment;
- type and amount of best available science and information;
- level of uncertainty and risk surrounding consequences of decision;
- expected quality of the monitoring program.

Scientific data and information from monitoring, be it VERP or any program, is only one factor that should be considered to arrive at a visitor capacity decision.

- 9. The Defendants try to overwhelm my position by submitting twelve declarations, as though they are opposed to setting numerical visitor capacity limits. However, there are hundreds of examples where National Park Superintendents have made visitor capacity decisions (the preceding paragraph 7 reinforces this point). For example, within the last few years Park Superintendents have set numeric visitor capacities on snowmobilers in Yellowstone National Park, boaters on the Colorado River through Grand Canyon National Park, and on climbers and travelers in Denali National Park.
- 10. As further evidence supporting my position, capacity decisions are routine and commonplace throughout the natural resource management profession. For example, capacities are responsible decisions routinely made related to timber harvesting, cattle and sheep grazing,

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use of in-stream water resources, commercial fisheries, river and horse outfitting and guiding, wildlife management and sport hunting, and for wilderness camping. Natural resource managers do not simply establish indicators, standards, and monitor to manage these other resources. In the absence of numeric capacities to manage our natural resources, we will witness the tragedy of the commons. That is what I fear for Yosemite National Park.

Several of the declarants responding to my 3rd declaration of September 2006

- argue that the development projects in Yosemite National Park should be allowed to continue. In my professional opinion, they are wrong. For example, a reasonable person does not build a house from inside out or installs the utilities last. A home builder needs an approved integrated and comprehensive plan and a logical process to follow. Likewise for Yosemite. Every pending project in Yosemite, however small and seemingly necessary, will have an incremental and collective affect on the future choices and options for Yosemite. Development may have some benefit, but will also foreclose some future options. The individual or cumulative impacts of these projects will likely change the type, quality, or number of visitor opportunities and ORV's in the Merced River. Thus, while some of these changes possibly may be found to be beneficial, we cannot gauge the affects of these changes, in terms of magnitude and significance, in the absence of an approved systematic, integrated, and comprehensive plan. Importantly, making changes with permanent consequences, in the absence of a valid comprehensive plan, are irreversible and irreparable steps that predetermine certain kinds and levels of use and accommodations.
- 12. Several of the declarants continue to singularly consider that the purpose of a visitor capacity is to limit visitation. This is <u>the</u> outdated notion. As stated in my 2nd declaration

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of March 2004, the Federal Interagency Task Force on Visitor Capacity recognized nine reasons for addressing visitor capacity:

While the declarants have suggested that the single purpose of a numeric capacity is to limit public use, the recreation management profession views the purposes of a numeric capacity to be much greater, meaningful, and proactive. The Task Force report states (page 11) that the overarching function of a numeric visitor capacity is to serve as one tool to help sustain natural and cultural resources, as well as the recreation opportunities and other benefits these resources afford the public. More specifically, the Task Force recognized nine purposes of a numeric visitor capacity: (1) as a measurement of the supply of appropriate recreation opportunities in an area; (2) as a trigger for management actions and increased resources; (3) as a public safety and resource risk management tool; (4) as a tool to provide predictability for the private sector, communities, and stakeholders; (5) as a tool to assist tourism and visitor trip planning; (6) for the administrative and historic baseline record; (7) for regional interagency planning and recreation demand and supply analysis; (8) for fundamental recreation allocation decisions such as those between concessioned and public users such as rafters on the Merced; and (9) to help justify the need to limit public use. (Doc. No. 177, par. 11, on pages 6-7, emphasis in original.)

- 13. Having written three previous declarations in this case and responding to a total of fifteen opposing declarations, I would like to conclude with specific points that reduce the capacity/VERP debate to its sharpest and most concise terms.
 - a. A visitor capacity is an administrative decision about the supply of available recreation opportunities in an area. VERP is a monitoring program of indicators, standards, and data collection protocols. A visitor capacity is not an indicator, a standard, a process, or a research finding. Conversely, VERP is not a visitor capacity decision.
 - b. Visitor capacities and monitoring (e.g., VERP) are two different management tools. Visitor capacities and monitoring serve two different purposes. They do not substitute for one another.
 - c. The question of visitor capacities and VERP does not pose an either/or option; that is, both visitor capacities and monitoring (e.g., VERP) are important for park and visitor protection.
 - d. VERP, as with any monitoring effort and resultant data, can be helpful in making a visitor capacity decision. VERP can also be useful in adapting and refining a visitor

capacity decision in the future. But again, VERP is not a visitor capacity.

- e. Visitor capacities require the integrated consideration of many factors (e.g., goals, actions, desired future conditions, proposed actions, management capability). One important factor in the decision is the best available monitoring information and science, be it from VERP or any other monitoring effort. VERP can provide important information, but in and of itself, VERP information does not determine a visitor capacity.
- f. Visitor capacities are typically made in an integrated comprehensive public planning process involving tier 1 or 2 general plans, whereas VERP is an internal technical management tool typically scoped out (e.g., standards, data collection tools, sampling locations and intensities, analyses) in tier 4 or 5 implementation plans.
- g. A visitor capacity requires a supporting monitoring program, be it VERP or another program. Principle #12 from the Federal Interagency Task Force on page 8, line 2, of my 2nd declaration (March 2004) states the "effectiveness of a visitor capacity decision depends on an adequate program for monitoring that is commensurate with the level of potential consequences, risk, and uncertainty."
- 14. In my professional opinion, moving forward with significant development, such as the Yosemite Lodge Project and realignment of Northside Drive, Curry Village Campgrounds, installation of utilities designed to service new development, and parking facilities, in the absence of defined user capacity, may cause irreparable injury, because it commits the Park Service to a level and kind of use that may not be proper to protect the Outstandingly Remarkable Values of the Merced River. At this point, the NPS does not have a user capacity and it does not have a comprehensive management plan for the Merced River to inform these decisions.

Pursuant to 28 U.S.C. § 1746 and under the laws of the United States, I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of September, 2006 in Fort Collins, Colorado.

/s/ Glenn E. Haas

Glenn E. Haas, Ph.D.